

SEVEN STAR RANCH, INC.

IBLA 84-38

Decided January 30, 1984

Appeal from decision of the Prineville, Oregon, District Office, Bureau of Land Management, denying protest of proposed Bar 71 Land Exchange (OR 22022).

Affirmed.

1. Exchanges of Land: Generally -- Federal Land Policy and Management Act of 1976: Exchanges

A protest against approval of a proposed land exchange, pursuant to sec. 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1716 (1976), is properly dismissed where the protestant has not established that BLM did not adequately consider the public interest or that the lands exchanged are not of equal value.

APPEARANCES: Bruce W. Newton, Esq., Prineville, Oregon, for appellant.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Seven Star Ranch, Inc. (Seven Star Ranch), has appealed a decision dated September 9, 1983, of the Prineville, Oregon, District Manager, Bureau of Land Management (BLM), denying its protest with respect to proposed Bar 71 Land Exchange (OR 22022). Bar 71 Ranch, Inc. (Bar 71 Ranch), had applied to the Prineville, Oregon, District Office, to select 7,811.78 acres of Federal land in return for 6,653.30 acres of land which it owns.

On September 4, 1981, BLM made a determination that the 7,811.78 acres located in Crook County, Oregon, 1/ were suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1716 (1976). Notice of the proposed exchange was published in the Federal Register (46 FR 47307 (Sept. 25, 1981)).

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1/ The lands proposed to be exchanged and acquired are located in T. 16 S., R. 24 E.; T. 17 S., Rs. 22, 23, and 24 E.; and T. 18 S., Rs. 23 and 24 E., Willamette meridian.

Appellant is the holder of grazing privileges on some of the public land in question, on which 16 animal unit months (AUM's) are allowed to appellant. 2/ This represents 19 percent of the total 85 AUM's allowed on public land in the Paulina Allotment, the use of which is attached to appellant's base property. If the exchange is consummated, the 16 AUM's would be lost from appellant's permit. 3/

Appellant's statement of reasons repeats the objections voiced in the protest. Appellant contends that the lands in question are located directly in the center of Seven Star Ranch and that the exchange would have an adverse effect on the functioning of ranching operations. Appellant asserts the elimination of the grazing permit would mean a lesser number of livestock could be grazed and that an overgrazing situation would develop because of the need to move livestock around on the deeded acres of the Seven Star Ranch. Finally, appellant anticipates that boundary changes brought about by the exchange could cause transportation and communication problems and devalue the Seven Star Ranch.

Each of appellant's objections was addressed in the District Manager's decision, which stated at the outset that the exchange was in the public interest because it would "consolidate public ownership elsewhere and allow disposal of several such isolated tracts thereby promoting more efficient management and public use of the land." The decision further stated that BLM's estimated grazing capacity of the tract (16 AUM's) is "less than 3 cows for a 7-month grazing season," and that according to BLM's records, appellant had grazed the tract only once since it acquired the permit in 1978. The decision points out that according to appellant's own map, Seven Star Ranch is made up of four separate parcels and that the public land in question is bordered by both Seven Star Ranch and Bar 71 Ranch. Additionally, the decision notes that appellant had plowed up almost 30 acres of the tract in trespass in 1982.

Appellant has offered no showing to contradict or deny the findings made in the District Manager's decision.

[1] The holder of a grazing permit does not have a vested right in land covered by his permit and such land is available for an exchange pursuant to section 206 of FLPMA, supra. It is not exempt merely because it is being used for grazing or because other land exists that is not grazed. F. F. Montoya, 70 IBLA 93 (1983).

Section 206(a) of FLPMA, supra, does require that Federal land may be disposed of by exchange "where the Secretary concerned determines that the public interest will be well served by making that exchange." In considering

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2/ The specific tract of public land of concern to Seven Star Ranch is that designated in the record as S-14, which is described in the BLM decision as being "less than 300 acres." However, the record shows S-14 to be 400 acres described as the N 1/2, W 1/2 SW 1/4 sec. 10, T. 17 S., R. 35 E., Willamette meridian.

3/ Letter dated June 22, 1982, from the Prineville District Area Manager to appellant's counsel.

the "public interest," section 206(a) directs the Secretary to give "full consideration to

better Federal land management and the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, minerals, and fish and wildlife and [provided] the Secretary concerned finds that the values and the objectives which Federal lands or interests to be conveyed may serve if retained in Federal ownership are not more than the value of the non-Federal lands or interests and the public objectives they could serve if acquired.

43 U.S.C. § 1716(a) (1976).

The file contains a land report, an environmental assessment, a preliminary appraisal, and other documents which extensively document the various impacts of the proposed exchange. Appellant has offered no evidence to dispute the findings and conclusions therein nor alleged how the exchange might be contrary to section 206(a) of FLPMA, supra. In the absence of evidence tending to show BLM failed to adequately consider the public interest or that the lands exchanged are not of equal value, the District Manager's decision is affirmed. BLM properly dismissed appellant's protest. See F. F. Montoya, supra.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Franklin D. Arness  
Administrative Judge  
Alternate Member

We concur:

Bruce R. Harris  
Administrative Judge

Wm. Philip Horton  
Chief Administrative Judge

